

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TRUSTEES OF THE BRICKLAYERS &
 ALLIED CRAFTWORKERS LOCAL 13
 DEFINED CONTRIBUTION PENSION TRUST
 FOR SOUTHERN NEVADA, et al.,

Plaintiffs,

vs.

GRANITE WORKS, INC., et al.,

Defendants.

Case No. 2:10-cv-00767-HDM-PAL

REPORT OF FINDINGS AND
RECOMMENDATION

This matter is before the court on Defendants Jon Canja's and Granite Works, Inc.'s ("Defendants") failure to comply with this court's Order (Dkt. #29) and Order to Show Cause (Dkt. #32).

On February 11, 2010, the court granted attorney Darius Rafie's motion to withdraw as counsel of record for Defendants and gave: (a) Defendant Jon Canja until February 24, 2011, in which to retain counsel or file a notice with the court that he would appear in this matter *pro se*; and (b) Defendant Granite Works, Inc. until February 24, 2011, in which to retain counsel. *See* Dkt. #24. The Order directed the Clerk of the Court to serve Defendants with a copy of the order at their last known address provided by their former counsel and advised Defendants that their failure to timely comply with the order "may result in a recommendation to the District Judge for sanctions, including case-dispositive sanctions."

Defendant Jon Canja failed to either retain counsel or file a notice with the court that he would appear in this matter *pro se*. Defendant Granite Works, Inc. failed to retain counsel. Neither Defendant requested an extension of time in which to comply with the court's Order.

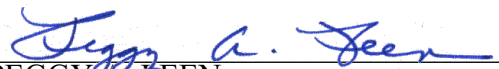
On March 9, 2011, the court entered an Order to Show Cause (Dkt. #32) based on Defendants' failure to comply with the court's previous Order (Dkt. #29). The court directed Defendants to show cause in writing no later than March 18, 2011, why they had not complied with the court's Order (Dkt. #29). Defendants have failed to file a response to the Order to Show Cause (Dkt. #32), and have not requested an extension of time in which to do so. Defendants' willful failure to comply with the court's Orders is an abusive litigation practice that has interfered with the court's ability to hear this case, delayed litigation, disrupted the court's timely management of its docket, wasted judicial resources, and threatened the integrity of the court's orders and the orderly administration of justice. Sanctions less drastic than default judgment are unavailable because Defendants have wilfully refused to comply with multiple court Orders and the Local Rules of Practice.

Accordingly,

IT IS RECOMMENDED:

1. Default judgment be ENTERED against Defendant Jon Canja unless he either retains counsel or files a notice that he will proceed *pro se* on or before **April 8, 2011**.
2. Default judgment be ENTERED against Defendant Granite Works, Inc. unless it retains counsel who shall file a notice of appearance in accordance with the Local Rules on or before **April 8, 2011**.

Dated this 25th day of March, 2011.


 PEGGY A. LEEN
 UNITED STATES MAGISTRATE JUDGE

NOTICE

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within ten days after being served with these findings and recommendations, any party may file written objections with the court. Pursuant to Local Rule of Practice (LR) IB 3-2(a), any party wishing to object to the findings and recommendations of a magistrate judge shall file and serve *specific written objections* together with

1 points and authorities in support of those objections, within fourteen days of the date of service of the
2 findings and recommendations. The document should be captioned “Objections to Magistrate Judge’s
3 Findings and Recommendations.” The parties are advised that failure to file objections within the
4 specified time may waive the right to appeal the District Court’s Order. *Martinez v. Ylst*, 951 F.2d 1153
5 (9th Cir. 1991). The points and authorities filed in support of the specific written objections are subject
6 to the page limitations found in LR 7-4.